

---

---

**UNITED STATES DISTRICT COURT**

---

---

**EASTERN DISTRICT OF TEXAS**

---

---

CECIL HOWELL, JR.,

Plaintiff,

*versus*SEAN B. BRIDGES, *et al.*,

Defendants.

§  
§  
§  
§  
§  
§  
§  
§  
§  
§

CIVIL ACTION NO. 9:22-CV-161

**MEMORANDUM ORDER OVERRULING OBJECTIONS AND ADOPTING THE  
MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

Plaintiff, Cecil Howell, Jr., an inmate confined at the Stiles Unit of the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se* and *in forma pauperis*, filed this civil rights action pursuant to 42 U.S.C. § 1983 against Defendants Deborah A. Phillips, Marvin Dunbar, Eric Guerrero, Bobby Lumpkin, Bryan Collier, Donald E. Muniz, Sean B. Bridges, Michael A. Byerly, John D. Lackey, II, Monica M. Rodgers, Darra A. Simon, Mitchell J. Dorsey, Nicholas E. Roten, Felisa D. Womack, Christopher A. Farrell, and Ben Gardner.

The court has received and considered the Report and Recommendation of the magistrate judge filed pursuant to such order, along with the record, and pleadings (#41). Plaintiff filed objections to the Report and Recommendation (#47). This requires a *de novo* review of the objections in relation to the pleadings and applicable law. *See* FED. R. CIV. P. 72(b).

The magistrate judge recommended Plaintiff's claims against all the defendants in their official capacity for monetary damages should be dismissed for lack of subject matter jurisdiction. In addition, the magistrate judge recommended dismissing Plaintiff's claims against the defendants in their individual capacities regarding the grievance procedure, his disciplinary conviction, the

conditions of his confinement, violations of equal protection laws, supervisory liability, breach of contract, assault under Texas law, and *Monell* claims for failure to state a claim and as frivolous. Moreover, as outlined in the Report and Recommendation, the Office of the Attorney General (“OAG”) on November 6, 2023, informed the court that no dispositive motion would be filed as to Plaintiff’s claims of excessive use of force and failure to intervene against Defendants Bridges, Byerly, Lackey, Rodgers, Simon, Dorsey, and Roten, in their individual capacities. Plaintiff’s claims of excessive use of force and failure to intervene will proceed to trial.

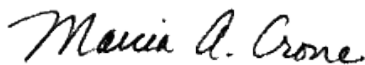
A careful review of Plaintiff’s objections reveal they lack merit.

### **ORDER**

Accordingly, plaintiff’s Objections are **OVERRULED**. The findings of fact and conclusions of law of the magistrate judge are correct, and the reports of the magistrate judge are **ADOPTED**. A Partial Judgment will be entered in accordance with the recommendation of the magistrate judge.

**Signed this date**

**Mar 21, 2024**



---

MARCIA A. CRONE  
UNITED STATES DISTRICT JUDGE